

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

IN RE:

§
§

ROYCE HASSELL

CASE NO. 19-30694

DEBTOR

§
§

CHAPTER 11

**OBJECTION OF TEXAS CAPITAL BANK, N.A. TO CONDITIONAL
APPROVAL OF DEBTOR'S FIRST AMENDED DISCLOSURE STATEMENT**
[Dkt. 71]

Texas Capital Bank, N.A. ("TCB") files this objection to the First Amended Disclosure Statement¹ ("Disclosure Statement") filed by the Debtor Royce Hassell ("Debtor") as follows:

1. On November 12, 2019, the Debtor filed his Disclosure Statement.
2. A hearing is scheduled on November 26, 2019 on conditional approval of the Disclosure Statement.

SUMMARY

3. Section 5.15 of the Disclosure Statement provides that the effect of the confirmation of the plan "to the extent permitted under section 1141(d)(3) of the Bankruptcy Code" acts as an injunction enjoining all persons bound by the plan from:

...commencing or continuing any suit, action or other proceeding of any kind or nature or employing any process against the Debtor, the estate, the Debtor's assets, the Debtor's relatives, the Debtor's affiliates.

(emphasis added)(the Third-Party Release").

4. TCB objects to the Disclosure Statement because it fails to comply with 11

¹ The Debtor filed a combined disclosure statement and plan of reorganization (the "Plan"). TCB reserves all right with respect to objecting to the Plan.

U.S.C. §1129 by providing adequate information with regard to the Third-Party Release.

ARGUMENT

5. The Debtor is a guarantor of certain leases of equipment leased from TCB by R. Hassell Properties, Inc. (“Properties”) and R. Hassell Holding Company (“Holding”), a chapter 7 debtor in the case styled *In The Hassell Holding Companies Inc.*, Case No. 18-33541, pending in the United States Bankruptcy Court for the Southern District of Texas, Houston division. The leases are also guaranteed by Terry Tauriello. Each of the leases is in default.

6. The Third-Party Release arguably encompasses TCB’s claims against Holdings, Properties and Tauriello.

7. The Disclosure Statement fails to comply with 11 U.S.C. § 1129 because it does not contain adequate information for a creditor to determine whether to vote for the Plan. Specifically, the Disclosure Statement fails to name the parties covered by the Third-Party Release and fails to disclose the potential claims against the third-parties to be released and their potential value. Further, it fails to disclose what, if any, benefit would inure to the estate from the Third-Party Release and what detriment the estate would suffer without the Third-Party Release.

8. Finally, the Disclosure Statement fails to disclose that the Debtor’s Plan is not confirmable, because the Third-Party Release violates Section 524 of the United States Bankruptcy Code by purporting to grant a discharge to a non-debtor.² The Disclosure Statement also fails to disclose that the Plan violates Bankruptcy Rule 7001, because it purports to effectuate an injunction without the filing of an adversary proceeding.

JOINDER IN OBJECTIONS

9. Alternatively or in addition, TCB hereby incorporates by reference and joins in the objections to the Debtor’s Disclosure Statement filed by all parties-in-interest, including but not

² See *Feld v. Zale Corp. (In re Zale Corp.)*, 62 F.3d 746 (5th Cir. 1995)(involving non-creditor and non-debtor).

limited to the Objection filed by The Hanover Insurance Company [Dkt. 77]. TCB thus adopts and joins in those objections.

10. TCB does not waive any rights or remedies by the filing of this Objection, all of which are expressly reserved.

WHEREFORE, Texas Capital Bank, N.A. respectfully requests that this Court sustain its objection and enter an order denying conditional approval of the Disclosure Statement; and grant such other and further relief to which TCB may be justly entitled.

DATED NOVEMBER 25, 2019

Respectfully Submitted,

By: /s/ Lisa A. Powell

Lisa A. Powell
State Bar No. 16204215
FISHERBROYLES, LLP
2925 Richmond, Ave.
Suite 1200
Houston, Texas 77098
(713) 955-3302
(713) 488-9412 (Fax)
lisa.powell@fisherbroyles.com

**ATTORNEYS FOR TEXAS CAPITAL
BANK, N.A.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by ECF on the parties entitled to notice on the 25th day of November, 2019.

/s/ Lisa A. Powell

Lisa A. Powell